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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
	10/820,661	04/07/2004	Paul A. Martin	SUN04-0234	8024
		7590 06/01/200 VSTEMS INC	EXAMINER		
	SUN MICROSYSTEMS INC. C/O PARK, VAUGHAN & FLEMING LLP		G LLP	KIM, PAUL	
	2820 FIFTH STREET DAVIS, CA 95618-7759		ART UNIT	PAPER NUMBER	
				2161	
			•		OF WERV VOR
				MAIL DATE	DELIVERY MODE
				06/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
	10/820,661	MARTIN, PAUL A.				
Office Action Summary	Examiner	Art Unit				
	Paul Kim	2161				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS,						
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1) Responsive to communication(s) filed on 06 M	arch 2007.					
2a)⊠ This action is FINAL . 2b)☐ This	action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) 1-42 is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	vn from consideration.					
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-42</u> is/are rejected.	•					
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examine	r.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
Soull						
Attachment(s) SAM RIMELL PRIMARY EXAMINER						
Attachment(s) 1) Notice of References Cited (PTO-892)	4) Interview Summar					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail I 5) Notice of Informal	Date				
Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	6) Other:	. atom / appround				

Application/Control Number: 10/820,661

Art Unit: 2161

DETAILED ACTION

- This Office action is responsive to the following communication: Amendment filed on 6 March
 2007.
- 2. Claims 1-42 are pending and present for examination. Claims 1, 15, and 29 are independent.

Response to Amendment

- 3. Claims 1, 15, and 29 have been amended.
- 4. No claims have been cancelled.
- 5. No claims have been added.

Claim Rejections - 35 USC § 112

- 6. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 7. Claims 3-5, 9-10, 12, 17-19, 23-24, 31-33, and 37-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims as recited are indefinite for failing to particularly point out and distinctly claim the subject matter because they recite conditional if-statements. That is, wherein the if-statements are not satisfied, the claims fail to address said situations wherein the if-statements are not satisfied by presenting an alternative action. Furthermore, the Examiner differentiates the use of if-statements from the use of when-statements in that if-statements address situations that may never occur, while when statements address the conditional situations that are claimed to occur in the claimed invention.

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Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1-42 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. As noted in the Office action dated 29 December 2006, the claims fail to recite the necessary steps for fully integration of the new node into the linked list. That is, while Applicant has amended the claims to further clarify "that the new node points to a node immediately following the existing node," the Examiner notes that the invention as claimed is inoperative since the claims fail to recite a step wherein the next pointer of the node previous to the existing node in the linked list is modified to point to the new node. Therefore, wherein said modification is not provided for, the new node fails to be fully integrated into the linked list such that the linked list is incomplete and broken. For the aforementioned reasons above, the disclosed invention is inoperative and therefore lacks utility. Therefore, since the claims invention is inoperative and lacks utility, the Examiner is unable to distinguish the scope of the claimed invention such that the application of art will be excluded from the current examination.

Response to Arguments

10. Applicant's arguments filed 6 March 2007 have been fully considered but they are not persuasive. While the Examiner notes Applicants amended claim language as providing clarification and addressing some of the issues under 35 U.S.C. 101, Applicant is directed to the aforementioned reasons found in the above claim rejections under 35 U.S.C. 101 for the invention being inoperative and therefore lacking utility.

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Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Kim
Patent Examiner, Art Unit 2161
TECH Center 2100

SAM RIMELL
PRIMARY EXAMINER